

United State District Court  
Southern District of New York

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MICHAEL D. COHEN,

Plaintiff,

-against-

**Rule 36**  
**Request for Admission**

21-cv-10774 (LJL)

UNITED STATES OF AMERICA,  
DONALD J. TRUMP, former President of  
the United States, WILLIAM BARR, former  
Attorney General of the United States, MICHAEL  
CARVAJAL, Director of the Bureau of Prisons,  
JON GUSTIN, Administrator of the Residential  
Reentry Management Branch of the Bureau of Prisons,  
PATRICK McFARLAND, Residential Reentry  
Manager of the Federal Bureau of Prisons,  
JAMES PETRUCCI, Warden of FCI Otisville,  
ENID FEBUS, Supervisory Probation Officer  
of the United States Probation and Pretrial Services  
ADAM PAKULA, Probation Officer of the  
United States Probation and Pretrial Services,  
and JOHN and JANE DOE (1-10) agents, servants,  
and employees of the United States,

Defendants,

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**Please Take Notice**, that pursuant to the provisions of FRCP 36, within thirty (30) days after being served with this Request for Admission for the purpose of this proceeding and subject to all pertinent objections to admissibility which may be interposed: Defendants truthfully state the fact(s), application of law to fact(s), or opinions about either, and the genuineness of any described document regarding the following:

1. Admit that on July 23, 2020 the Honorable Alvin K. Hellerstein, USDJ presided over a petition and emergency motion in *Cohen v. Barr et. al.*, 1:20-cv-05614-AKH, [ECF 33-34].

2. Admit petitioner in *Cohen v. Barr et. al.*, 1:20-cv-05614-AKH, was Michael D. Cohen and respondents were William Barr, Michael Carvajal and James Petrucci (hereinafter collectively referred to as “respondents”).
3. Admit that all sides were represented by counsel and prior to the aforementioned proceeding submitted written legal and factual arguments to the Court for consideration.
4. Admit that on July 23, 2020 all parties appeared for the aforementioned proceeding, presented oral arguments to the Honorable Alvin K. Hellerstein, USDJ, and were given a full and fair opportunity to be heard on the merits and were indeed heard on the merits.
5. Admit that following the aforementioned proceeding the attached July 23, 2020 Order was handed down by the Honorable Alvin K. Hellerstein, USDJ 1:20-cv-05614-AKH, [ECF 30] and same is a true and authentic copy of the genuine original Court Order.
6. Admit that preserved within said July 23, 2020 Order [ECF 30] the Honorable Alvin K. Hellerstein, USDJ found and ruled: “Respondents’ purpose in transferring Cohen from release on furlough and home confinement back to custody was retaliatory in response to Cohen desiring to exercise his First Amendment rights to publish a book critical of the President and to discuss the book on social media”
7. Admit that respondents did not appeal the rulings and/or Orders of the Honorable Alvin K. Hellerstein, USDJ in *Cohen v. Barr et. al.*, 1:20-cv-05614-AKH.
8. Admit the July 23, 2020 Order [ECF 30], along with other extemporaneous findings and rulings from the proceeding [ECF 33-34] are law of the case *sub judice*.
9. Admit the attached Stipulation and Order in *Cohen v. Barr et. al.* 1:20-cv-05614-AKH, [ECF 36] bear: signatures dated July 30, 2020 of all parties stipulating to the agreement therein, a January 26, 2021 conformed signature of the Honorable Alvin K. Hellerstein, USDJ who So Ordered said stipulation, and that said Stipulation and Order is a true and authentic copy of the genuine original document.

10. Admit respondents agreed and stipulated in the aforementioned Stipulation and Order they would “. . . not further litigate or appeal the Court’s rulings.”
11. Admit the aforementioned Stipulation and Order was and remains binding on the parties and specifically the instant defendants William Barr, Michael Carvajal and James Petrucci who were respondents in *Cohen v. Barr et. al.*, 1:20-cv-05614-AKH, referenced *supra*.
12. Admit that on or about April 4, 2022 the aforementioned respondents, who are defendants in the instant action, filed a Rule 12(b)(6) motion to dismiss [ECF 39].
13. Admit the aforementioned respondents, now defendants at bar, by virtue of their April 4, 2022 Rule 12(b)(6) motion to dismiss [ECF 39], are litigating the *Cohen v. Barr et. al.*, 1:20-cv-05614-AKH, July 23, 2020 Order [ECF 30], and/or finding(s) and ruling(s) from the proceeding [ECF 33-34].

**Please Take Further Notice**, that in the event of your failure to appropriately and timely respond to this Request for Admission pursuant to FRCP 36, the above item(s) will be deemed admitted along with any and all other consequences available at law.

Dated: New York, NY  
April 22, 2022

Yours, etc.,

  
JEFFREY K. LEVINE, ESQ.

LAW OFFICES OF JEFFREY K. LEVINE  
Attorneys for Plaintiff Michael D. Cohen  
340 W. 57<sup>th</sup> Street, Suite 11E  
New York, NY 10019  
212-721-9600

[JL@NYADVOCATE.COM](mailto:JL@NYADVOCATE.COM)

